IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

CRP.No. 83 of 2001(A)

TLB.382/1973 of TALUK LAND BOARD, MANANTHAVADY DT.26.8.2000.
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REVN. PETITIONER: DECLARANT

K.P.JOSEPH, KIZHAKKETHUNDATHIL HOUSE, KUPPATHODU VILLAGE, POST NADAVAYAL, NORTH WYNAD TALUK, WYNAD DISTRICT.

BY ADV. SRI.T.A.RAMADASAN
SRI.A.K.ALEX

RESPONDENTS: OPP.PARTY
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1. **TALUK LAND BOARD, MANANTHAVADY.**

2. **STATE REP.BY CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P. NO.83/2001

ORDER ON CMP. NO.160/2001 IN CRP. NO.83/2001

DISMISSED

31.07.2007 **SD/- PIUS C.KURIAKOSE, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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PIUS C.KURIAKOSE,J

CRP NO. 83 of 2001

Dated this the 31st day of July, 2007

JUDGMENT

Under the original proceedings of the Taluk Land Board, it was held that the petitioner declarant does not hold any land in excess of ceiling area and accordingly the proceedings were dropped without directing the petitioner to surrender any land at all. This was done accepting the claim of the petitioner that 8 acres out of his total holding was coffee plantation and 5 acres was rubber plantation. Reliance was placed by the then Taluk Land Board on the report submitted by the authorised officer on the basis of an inspection conducted by him in 1976. In 1992, the case was reopened under Section 85(9A) and the authorised officer was deputed once again. In the report subsequently obtained from the authorised officer, as regards coffee plantation, it is stated that the coffee plants appeared to be below of 30 years of age and on that basis, the authorised officer concluded

that the planting was after 1.4.1964. As regards the rubber plantation, the authorised officer noticed that the previous authorised officer had not actually seen any rubber tree but had seen only the stumps of rubber trees which had been cut and removed. He would report that in his present inspection he could not see any rubber tree at all, but the entire land covered by what is claimed to be rubber plantation was seen planted with seasonal crops. Relying on the subsequent report of the authorised officer, the Taluk Land Board under the impugned order refused to exempt the total extent of 13 acres claimed as coffee plantation and rubber plantation.

2. I have heard the submissions of Sri.T.A.Ramadasan, learned counsel for the petitioner and the learned Government Pleader. The learned counsel for the petitioner would submit that CRC No.6491/50 was produced before the Taluk Land Board. So also the Rubber Board License No.3 was produced. Counsel submitted that the Coffee Board Registration Certificate will show that as far back as 1950, the land in question was coffee plantation. It seems that the above argument was addressed

before the Taluk land Board also, but the Taluk Land Board noticed that as per the CRC, registration has been granted only in respect of two acres. As for the 8 acres, presently claimed to be coffee plantation, it was noticed that those 8 acres were incorporated in the CRC only in 1973. Mr.Ramadasan would submit that though incorporation in the CRC is only in 1973, the truth is that even prior to 1.4.1964, the entire 8 acres had been planted with coffee.

3. As I have already noticed, the authorised officer's report is only to the effect that the coffee plants are aged below 30 years. His inspection was on 22.7.2001. In other words, the authorised officer's report was that the trees were planted only after 1970. As regards the rubber plantation, the learned counsel would submit that the authorised officer in his first report had also reported that the land had been replanted with rubber. Just because the authorised officer in his second inspection conducted in 2001 did not see any rubber tree, it could not be assumed that the area was not rubber plantation on the crucial date. Learned counsel submitted that the implications of the rubber

board license are not seen considered by the Taluk Land Board at all.

4. The learned Government Pleader would support the impugned order. It cannot be said that the impugned order is vitiated by any error of law justifying invocation of the jurisdiction of this Court under Section 103, so submitted the G.P.

5. I have considered the rival submissions made at the Bar. I am of the view that the safest and the surest method for determining the age of the coffee plants, which are even now available on the area of 8 acres claiming an exemption as coffee plantation, is through an assessment by a competent agricultural scientist. The learned counsel for the petitioner submitted that if an opportunity is given, the petitioner will be prepared to facilitate the filing of such a report before the Taluk Land Board. Under these circumstances, I set aside the impugned order and direct the Taluk Land Board to permit the petitioner to adduce scientific evidence regarding the correct age of the coffee plants which are seen in the coffee plantation in respect of which

exemption is claimed. The petitioner will submit a panel of agricultural scientists preferably from Agricultural University, Mannuthi or from the CPCRI, Kasargod and the Taluk Land Board will appoint any one from among the panel as expert commission. All the expenses required in the matter will be deposited by the petitioner before the Taluk Land Board and the Taluk Land Board will issue appropriate directions, so that a report filed by the scientist so appointed regarding the correct age of the coffee plants in question is filed. Once such a report is obtained, fresh orders will be passed by the Taluk Land Board on the basis of such report. Since the matter is going back to the Taluk Land Board, I also direct the Taluk land Board to refer to the Rubber board license relied on by the petitioner in the order and assign reasons as to why the license is not relied on for accepting the petitioner's claim for exemption for the five acres as rubber plantation.

PIUS C.KURIAKOSE,
JUDGE

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